

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Daniel W. Kazmierski, & Randall C. Jenkins

Serial No.: 08/785,077

Group Art Unit: 1.007

Filed: 1-17-97

Examiner: Thomas H.

For: MECHANICALLY FROTHED AND CHEMICALLY BLOWN
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Nancy F. Hobbs

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Nancy F. Hobbs
(Signature of person mailing paper or fee)Assistant Commissioner of Patents & Trademarks
Washington, D.C. 20231

Sir:

PETITION UNDER 37 C.F.R. §1.47; INVENTOR UNAVAILABLE OR
REFUSES TO EXECUTE APPLICATION

One of the co-inventors, Randall C. Jenkins, in the above referenced application, hereby petitions the Commissioner to accept the application without the execution of the DECLARATION & POWER OF ATTORNEY (hereinafter declaration) by the other co-inventor, Daniel W. Kazmierski, because Mr. Kazmierski refuses to sign the declaration sent to him several months ago. Please charge \$130.00 for this petition under 37 C.F.R. §1.17(h) to our Deposit Account No. 04-1512. If this estimate is incorrect, please charge or credit our account accordingly. Two duplicate copies of this sheet are enclosed.

Also attached is the verified statement of Mr. Gene L. Tyler, a registered patent attorney and the attorney of record on application S/N 60/010,247. Mr. Tyler's

statement outlining the efforts of petitioner to secure Mr. Kazmierski's cooperation. In summary, Mr. Kazmierski refuses to sign any further documents regarding this invention despite being informed of his obligation to do so and notwithstanding the fact that he executed the Assignment in favor of DOW. Also attached is an Affidavit from the Chief Executive Officer of Mr. Kazmierski's employer, setting out the elements which show that The Dow Chemical Company, the petitioner's employer, has a proprietary interest in the invention disclosed in the above referenced patent application.

Failure to grant this petition, accept the application, and grant it the priority date of the parent provisional application will result in irreparable harm to, or prejudice the rights of, your petitioner. This is true because the invention has been commercialized for at least one year, and the subject of Foreign applications which will publish in the near future. The published applications could serve as prior art or a statutory bar to a new application.

As shown by the attached declaration of Gene L. Tyler, diligent efforts have been made to secure Mr. Kazmierski's cooperation, to no avail. His last known address and telephone number are:

Mr. Daniel W. Kazmierski
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